THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.29529 of 1998

ORAL ORDER:

This writ petition is filed challenging the award made in I.D.No.603 of 1993 dated 22.12.1997 on the file of the Labour Court-I, Hyderabad.

Petitioner is the management and first respondent is the workman. It appears, first respondent was appointed as Driver in the Petitioner Corporation with effect from 18.10.1986 and his services in the said cadre were regularized with effect from 16.2.1987. While that being so, on a complaint made stating that the first respondent has no valid driving licence, the same was got verified and the Additional Licensing Authority-cum-Regional Transport Authority, Central Zone through letters dated 21.10.1987, 26.10.1987 and 2.2.1988 informed that the driving licence held by the first respondent is not a genuine one. Thereafter, a charge sheet was issued and first respondent was removed from service by order dated 8.8.1988. Aggrieved by the same, first respondent raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Labour Court-I. It was the case of the first respondent before the Labour Court that the enquiry was not properly conducted and he was not given proper opportunity to defend himself and that apart the licensing authority or any person from its office was not examined to prove the fact that the licence was not a genuine one, therefore, he is entitled for reinstatement with continuity of service and backwages. The management has filed a detailed counter denying the averments made by the

workman.

On behalf of workman, he examined himself as W.W.1 and marked documents Exs.W1 to W11. On behalf of management, M.Ws.1 and 2 were examined and marked documents M1 to M7 and the Court also marked Ex.C1. After examining the entire evidence on record, the Labour Court came to the conclusion that the charges framed against the workman were not proved, therefore, he is entitled for reinstatement, with continuity of service and with 50% backwages. Aggrieved by the same, the present writ petition is filed.

When the notices were sent to first respondent on 28.1.1999, the same were returned unserved with postal endorsement “not claimed”, therefore, the matter is taken up on merits.

Having perused the entire material made available on record, I am of the view that the charges framed against the first respondent, may be, not proved, but that itself does not mean the first respondent is entitled for 50% backwages as awarded by the Labour Court. The Labour Court, while exercising its power under Section 11-A of the I.D. Act, erred in awarding 50% backwages while directing reinstatement with continuity of service and other attendant benefits. The removal order was passed on 8.8.1988, whereas the workman filed application under Section 2-A(2) of the I.D. Act in the year 1993 i.e. with a delay of more than 5 years. Further, it is the case of the management that the first respondent workman was not holding a valid licence and this was based on the reports of the Licensing Authority itself. The charge, as such, is grave in nature, may be, it was not proved. But, in the facts and circumstances of the case, I am of the opinion that the Labour Court was not right in awarding 50 % of backwages, without furnishing any reason for

awarding such amount.

Under those circumstances, the award passed by the Labour Court is modified and to be read as under:

> "The workman is entitled for reinstatement with continuity of service and other attendant benefits, but without any backwages."

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 12.10.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.29529 of 1998

12.10.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.29529 of 1998

Date: 12th October, 2007

Between:

The Depot Manager,
APSRTC, Mushirabad Bus Depot,

Hyderabad.

.. Petitioner

And

M.Narayan Reddy & another.

.. Respondents